

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AQUIL JOHNSON	:	CIVIL ACTION
	:	
v.	:	
	:	
MARK GARMAN, et al., THE ATTORNEY :	:	
GENERAL OF THE STATE OF	:	
PENNSYLVANIA and THE DISTRICT	:	
ATTORNEY OF PHILADELPHIA COUNTY :	:	NO. 17-136

ORDER

NOW, this 17th day of May, 2022, upon consideration of the Amended Petition for Writ of *Habeas Corpus* and Memorandum of Law (Doc. Nos. 27 and 27-1), the response to the amended petition, the petitioner's reply, and the Report and Recommendation filed by United States Magistrate Judge Elizabeth T. Hey (Doc. No. 38), the petitioner's objections to the Report and Recommendation and the response to the objections, and after a thorough and independent review of the record, it is **ORDERED** that:

1. The petitioner's objections are **OVERRULED**;
2. The Report and Recommendation of Magistrate Judge Elizabeth T. Hey is **APPROVED** and **ADOPTED**.
3. The Amended Petition for Writ of *Habeas Corpus* is **GRANTED IN PART** and **DENIED IN PART**.
4. With respect to petitioner's challenge to the validity of his 2007 guilty plea, the Amended Petition for Writ of *Habeas Corpus* is **DENIED**.
5. With respect to petitioner's claim of judicial bias in sentencing for violation of probation, the Amended Petition for Writ of *Habeas Corpus* is **GRANTED**.
6. Petitioner shall be resentenced on the violation of probation within 120 days

or the sentence shall be vacated.

7. No certificate of appealability shall issue with respect to Johnson's claim as to the validity of his 2007 guilty plea because the petitioner has not made a substantial showing of the denial of a constitutional right under 28 U.S.C. § 2253(c)(2).

/s/ TIMOTHY J. SAVAGE J.